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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,233	11/09/2006	Christian Schanz	2000-0001	8186
50811	7590	11/19/2009		
O'Shea Getz P.C. 1500 MAIN ST. SUITE 912 SPRINGFIELD, MA 01115			EXAMINER ULLAH, AKME	
			ART UNIT 2874	PAPER NUMBER
			MAIL DATE 11/19/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/526,233	SCHANZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Akm Enayet Ullah	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 8-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,3-5 and 8-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/28/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**Detailed Action**

**Applicant cooperation is requested in correcting any errors of which applicant may become aware in the specification.**

**Status of the Application**

**Claims 1, 3 - 5, 8 – 15 are pending in this application.**

**Claims 2 and 6-7 have been canceled from this application.**

**If applicant is aware of any prior art or any other co- pending application not already of record, he/she is reminded of his/her duty under 37 CFR 1.56 to disclose the same.**

**If applicant provides prior art, he/she is requested to cite it on form PTO-1449 in accordance with the guideline set forth in MPEP 609.**

**Foreign Priority Paper**

**Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.**

**Abstract of the Disclosure-Language**

**Applicant is reminded of the proper language and format for an abstract of the disclosure.**

**The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is**

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important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### **Rejection under 35 USC 112 2<sup>nd</sup> Paragraphs**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999).

The term "a day mode or night mode" in claims 1, 12 is used by the claim to mean "open or close", while the accepted meaning is "when switch is close backlight control circuit detect the signal jointly and when switch is open signal are detected separately from each other." The term is indefinite because the specification does not clearly redefine the term.

Claims 1, 3-5 and 8-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

.Regarding claims 1, 3-5 and 8-15, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Throughout the claim applicant stated regarding a day mode and a night mode. What constitutes day mode and night mode? These type language fails to give understanding to the claim what exactly applicant is referring to.

For an example claim 1 stated "wherein in the night mode the switch is close and the first and second current signals can be detected by the backlight control jointly, and in the day mode the switch is open and first and second current signal are detected by the backlight control circuit separately from each other". This type of statement fails to add any weight in claim. It is only a switch which can open and/or close to detect the current signal (i.e., characteristics. There is nothing unusual or surprising about such limitations (i.e., switch is open or close to detects the current signal by the backlight control circuit). Thus, this type of claim language in any claim is vague and indefinite.

Although, it may define in the body of the specification it is noted that the claim language as it claimed throughout the claims are not clear. Thus, it fails to give a proper understanding to the claim how day and night mode corresponds to the applicant's instant invention.

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**Regarding claim 9**, the switch comprises a semiconductor switch. Claim 9 fails to add further limitation to the claim.

**Claims 11 & 15 recites “where the control circuit comprises a LT1768 integrated circuit”.**

Claims 11 & 15 contains the trademark/trade name LT1768. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe in paragraph (0011) and, accordingly, **the identification/description is indefinite.**

Please note that the above informalities are representative of all of the informalities present in the claims. Applicant should correct all of the informalities present in the claims.

#### **Claim Rejections - 35 USC § 103**

**The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

**(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.**

**This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).**

Claims 1, 3-5 and 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirakata et al. (US Publication number 2007/0052664 A1) in view of Ito et al (USP NO. 6,351,074 B1).

Hirakata et al. disclose all the claimed limitations such as display backlight control circuit, fluorescent tubes connected to a common transformer circuit, a

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switch which is configured to shunt output of, a first and second current signal which can be detected by the backlight control circuit, a burst mode which produce an ignition, backlight controller trigger mechanism, backlight inverter integrated circuit etc.

Hirakata et al. **fails to mention that the device includes day mode and night mode as claimed in claimed.**

**Please note that this distinction is interpreted as nothing more than a duplication of phrase/term without producing new and unexpected results and such is not considered novel, see In re Harza, 124 USPQ 378.**

**The use of such day mode and night mode function in switch to open the switch and close the switch is very elementary teachings in this art as is shown by Ito et al .**

**Ito et al is the evidence that ordinary skill in the art would find a reason, suggestion or motivation to have day mode and night mode function in a liquid crystal display as claimed.**

**One of ordinary skill in the art would have found it obvious to use the day mode and night mode function in a liquid crystal display device of Ito et al in Hirakata et al since, column 5, lines 35-40, mentioned that a lighting circuit capable of simultaneously carrying out lighting control in a discharge lamp for main beam and a discharge lamp for dipped beam (i.e., act as a day mode and night mode). Also see column 6, line 45-50 of the reference.**



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**It is noted that applicant has not described such (day mode and night using in the switch mechanism) as being critical or yielding unexpected benefits. Certainly a person of ordinary skill in the art would find it beneficial to achieve such mechanism from the liquid crystal display device if desired.**

**Examiner's Note:**

Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the meets and bounds of the claimed invention.

**Citation of Relevant Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Lee (USPub. Number 2001/0038425), Kalmanash (USPNO.5,982,090), McCanney (USPNO. 5,420,481) are also cited to show a typical backlight display, an integrated dual mode flat backlight and fluorescent lamp over a wide dimming range respectively.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akm Enayet Ullah whose telephone number is (571)272-2361. The examiner can normally be reached on Monday through Thursday from 6:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Uyen-Chau Le, can be reached on 571-272-2397. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Akm Enayet Ullah/  
Primary Examiner, Art Unit 2874